

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

HANS A. QUAACK, ATTILIO PO  
and KARL LEIBINGER, on behalf of  
themselves and those similarly situated,

Plaintiffs,

v.

DEXIA, S.A. and DEXIA BANK BELGIUM  
(formerly known as ARTESIA BANKING  
CORP., SA),

Defendants.

No.: 03-CV-11566 (PBS)

STONINGTON PARTNERS, INC., a Delaware  
Corporation, STONINGTON CAPITAL  
APPRECIATION 1994 FUND L.P., a Delaware  
Partnership and STONINGTON HOLDINGS,  
L.L.C., a Delaware limited liability company,

Plaintiffs,

v.

DEXIA, S.A. and DEXIA BANK BELGIUM  
(formerly known as ARTESIA BANKING  
CORP., SA),

Defendants.

No.: 04-CV-10411 (PBS)

GARY B. FILLER and LAWRENCE PERLMAN,  
Trustees of the TRA Rights Trust,

Plaintiffs,

v.

DEXIA, S.A. and DEXIA BANK BELGIUM  
(formerly known as ARTESIA BANKING  
CORP., SA),

Defendants.

No.: 04-CV-10477 (PBS)

JANET BAKER and JAMES BAKER, JKBaker  
LLC and JMBaker LLC,

Plaintiffs,

v.

DEXIA, S.A. and DEXIA BANK BELGIUM  
(formerly known as ARTESIA BANKING  
CORP., SA),

Defendants.

No.: 04-CV-10501 (PBS)

**PLAINTIFFS' MOTION FOR LEAVE TO SUBMIT REPLY DECLARATION  
IN FURTHER SUPPORT OF PLAINTIFFS' MOTION TO COMPEL DEPOSITIONS OF  
DEFENDANT DEXIA BANK BELGIUM THROUGH JEAN-PAUL CLOES, CATHERINE  
DECOUTERE, IVAN DE COEN, JORIS VAN HELLEPUTTE, AND NADIA VAN HOVE**

Class plaintiffs together with plaintiffs Stonington Partners, Inc., Stonington Capital Appreciation 1994 Fund L.P. and Stonington Holdings, L.L.C., Gary B. Filler and Lawrence Perlman, Trustees of the TRA Rights Trust, and Janet Baker, James Baker, JKBaker LLC and JMBaker LLC (collectively the "Plaintiffs") hereby move, pursuant to Massachusetts Local Rule 7.1(b)(3) for leave to submit the attached Reply Declaration of Susan M. Davies in Further Support of Plaintiffs' Motion to Compel Depositions of Dexia Bank Belgium Through Jean-Paul Cloes, Catherine Decoutere, Ivan de Coen, Joris van Helleputte, and Nadia van Hove executed on May 24, 2006, together with the exhibits thereto ("Reply Declaration").

In support of this motion, Plaintiffs state as follows.

1. On May 17, 2006, Defendant Dexia Bank Belgium ("Dexia") served papers in opposition to Plaintiffs' Motion to Compel Depositions of Dexia Bank Belgium Through Jean-Paul Cloes, Catherine Decoutere, Ivan de Coen, Joris van Helleputte, and Nadia van Hove. In its opposition, Dexia makes two arguments that are factually incorrect, and which Plaintiffs hereby seek leave to rebut by the attached Reply Declaration.

2. First, Dexia asserts that “Plaintiffs have not obtained *any* testimony from [Dexia senior executives] indicating that the five individuals that are the subject of this motion are or were managing agents of Dexia.” (Dexia Opposition Memorandum at 2) (emphasis in original). This is false. As detailed in the attached Reply Declaration, the deposition testimony of senior Dexia executives supports Plaintiffs’ assertion that Jean-Paul Cloes, Catherine Decoutere, Ivan de Coen, and Joris van Helleputte are Dexia’s managing agents.

3. Second, Dexia argues that Plaintiffs do not need to depose the individuals who are the subject of the instant motion because Plaintiffs have had the opportunity to examine some of Dexia’s senior executives concerning the same subjects. Specifically, Dexia asserts Plaintiffs’ examination of Dexia executive Jacques Janssens concerning the Dictation and BTG loans obviates any need for Plaintiffs to depose Ivan de Coen and Joris van Helleputte. (Dexia Opposition Memorandum at 6, 7 n.10.) In addition, Dexia asserts that Plaintiffs’ examination of Dexia executives Claude Piret and Francois Saverys concerning the audit reports written by Jean-Paul Cloes and Catherine Decoutere obviates any need for Plaintiffs to depose Mr. Cloes and Ms. Decoutere.

4. It is not for Dexia to decide whether Plaintiffs’ need for discovery concerning events at issue has been satisfied by one or two depositions. In any event, critical gaps in the knowledge and recollection of Messrs. Janssens, Piret, and Saverys -- which are summarized in the attached Reply Declaration -- highlight Plaintiffs’ need to examine Dexia’s lower-level managing agents who had hands-on responsibility for these matters.

5. Plaintiffs therefore respectfully seek leave to file the attached Reply Declaration which presents deposition testimony of Dexia’s senior executives that contradicts Dexia’s assertions to this Court.

**Certification under D. Mass. Local Rules 7.1(a)(2) and 37.1(b)**

6. Pursuant to Local Rules 7.1(a)(2), undersigned counsel hereby certify that on May 24, 2006, Plaintiffs' counsel conferred by telephone with James B. Weidner, Esq. of Clifford Chance US LLP, counsel for Dexia, concerning the filing of the instant motion. Mr. Weidner indicated that Dexia would not consent to Plaintiffs' application for leave to file the Reply Declaration.

WHEREFORE, Plaintiffs respectfully request that this Court enter orders:

- (1) relieving Plaintiffs of the obligation under Local Rule 7.1(b)(1) to file a memorandum of law and declaration in support of the instant motion simultaneously herewith;
- (2) authorizing the filing of the Reply Declaration of Susan M. Davies in Further Support of Plaintiffs' Motion to Compel Depositions of Dexia Bank Belgium Through Jean-Paul Cloes, Catherine Decoutere, Ivan de Coen, Joris van Helleputte, and Nadia van Hove executed on May 24, 2006, together with the exhibits thereto; and
- (3) for such other and further relief as the Court deems just and proper.

Dated: May 24, 2006

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that this document will be filed through the ECF system, which filing will constitute service of the document upon all registered ECF users as identified on the Notice of Electronic Filing (NEF). A paper copy of this document has been mailed in accordance with FED. R. CIV. P. 5(b) to all those case participants not identified on the NEF as electronic recipients.

/s/ Susan M. Davies

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